

VZCZCXRO7103  
PP RUEHCHI RUEHDT RUEHHM RUEHNN  
DE RUEHBK #0883 0440901  
ZNY CCCCC ZZH  
P 130901Z FEB 07 ZDK  
FM AMEMBASSY BANGKOK  
TO RUEHC/SECSTATE WASHDC PRIORITY 4768  
INFO RUCNASE/ASEAN MEMBER COLLECTIVE PRIORITY  
RUEHBJ/AMEMBASSY BEIJING PRIORITY 3625  
RUEHSW/AMEMBASSY BERN PRIORITY 1231  
RUEHBY/AMEMBASSY CANBERRA PRIORITY 6652  
RUEHOT/AMEMBASSY OTTAWA PRIORITY 7394  
RUEHUL/AMEMBASSY SEOUL PRIORITY 2666  
RUEHKO/AMEMBASSY TOKYO PRIORITY 8818  
RUEHCHI/AMCONSUL CHIANG MAI PRIORITY 3048  
RUCPDO/DEPT OF COMMERCE WASHINGTON DC PRIORITY  
RUEATRS/DEPT OF TREASURY WASHINGTON DC PRIORITY

C O N F I D E N T I A L BANGKOK 000883

SIPDIS

SIPDIS

STATE FOR EAP/MLS AND EB  
COMMERCE FOR EAP/MAC/OKSA  
TREASURY FOR OASIA  
USTR FOR WEISEL

E.O. 12958: DECL: 02/13/2017  
TAGS: [EINV](#) [ETRD](#) [PGOV](#) [PREL](#) [TH](#)  
SUBJECT: FOREIGN MISSIONS RESPOND TO THE FOREIGN BUSINESS  
ACT

REF: A. SECSTATE 14343

[1](#)B. BANGKOK 581

Classified By: AMBASSADOR RALPH L. BOYCE FOR REASON 1.5 B

[1](#)1. (SBU) As instructed in reftel A, on February 12 we delivered a diplomatic note expressing USG concerns about the RTG's proposed amendments to the Foreign Business Act (FBA) to Ms. Vilawan Mangkklatanakul, Counselor to the MFA Department of International Economic Affairs. Our action followed the February 9 delivery of letters from the EU and Canadian Ambassadors to Deputy Prime Minister Pridiyathorn that expressed their concerns and argued that the proposed FBA amendments would be inconsistent with Thailand GATSS obligations. Copies of these letters have been forwarded to EAP/MLS. Similar letters are expected to be sent this week by the embassies of Japan, Switzerland, Australia and perhaps South Korea.

[1](#)2. (C) In our meeting with Vilawan, the business community's concerns and questions were discussed and we provided a non-paper with a list of 13 sample questions. Vilawan acknowledged that there is considerable confusion about how the laws could be implemented and noted that, as a lawyer herself, she was not certain if applying a law retroactively- as the amendments propose- is legal. These and other questions will be considered by the Council of State which is currently reviewing the draft for legal consistency with Thailand's other laws and international commitments. Vilawan pointedly said "please tell your business community that it often takes us a very long time to pass a law, especially one as complicated as this."

[1](#)3. (C) In working with local lawyers and other foreign missions concerned about the impact the FBA changes would have on their corporate citizens, we concluded that the best course of action will be to try and wait out this government. By July the National Legislative Assembly (NLA), which must consider the FBA amendments, will be fully occupied debating the new constitution for the remainder of their term which expires with elections expected by the end of this year. We hope to ensure that the Council of State and the NLA carefully consider a myriad of legal issues related to the

amendments before the draft is passed into law. The goal is for the term of office of the current regime to expire before the amendments can be acted upon. We would then have the opportunity to work with a new government to reconsider the proposed legislation. One way we have attempted to increase the Council's awareness of the Proposal's complexities and uncertainties is by asking in our "13 Questions" how the amendments would conform to the various bilateral investment agreements Thailand has signed over the years (including a 2003 TIFA with the US, the ASEAN Free Trade Agreement, and numerous Economic Cooperation Agreements with OECD nations).

14. (C) The RTG may also delay enacting the draft amendments if the Thai economy continues to slow. In January the Bank of Thailand cut its base policy rate and expectations are that another 75 to 125 basis points will be cut by the end of the year to stimulate the economy. The Deputy Prime Minister has also been speaking much more about fiscal stimulus and rapid disbursement of the budget. We believe this is in reaction to continued slowing in domestic consumption and private investment in the wake of recent economic policies and continued political uncertainty. Some economists are predicting growth of near zero percent by the third quarter this year. If the economy in fact performs that poorly, we believe it will be difficult for the RTG to proceed with any changes that would further reduce foreign investment.  
BOYCE